

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13333, of Steven L. Cymrot, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the floor area ratio requirements (Sub-section 5301.1) to allow an existing commercial/residential use building to be converted to complete commercial use in a C-2-A District at the premises 541-45 - 8th Street, S.E., (Square 903, Lot 32).

HEARING DATE: September 17, 1980

DECISION DATE: October 1, 1980

FINDINGS OF FACT:

1. The subject property is located on the northwest corner of the intersection of 8th and G Streets, S.E. and is known as premises 541-45 - 8th Street, S.E. It is in a C-2-A District.

2. The subject site is rectangular in shape. It is sixty feet wide and seventy-six feet deep. The site is improved with a two story and cellar structure that was constructed about 1900. The structure occupies approximately ninety-two percent of the lot.

3. The first floor and cellar of the subject building has been occupied by the American Rescue Workers Thrift Shop since April, 1972. The second floor has been vacant for approximately three years. Prior to its vacancy it had been used as four apartments.

4. A Certificate of Occupancy, No. B-81717 was issued May 21, 1972 for the retail sale of donated clothing and furniture, second hand sales, street floor only. No certificate of occupancy was ever issued for the residential units of the second floor.

5. The applicant purchased the subject premises in 1978 prior to the modification of the Zoning Regulations which reduced the permitted commercial floor area ratio from 2.0 to 1.5. The applicant proposes to convert the entire building to commercial use. The first floor would contain four or five retail spaces of 600 to 1500 square feet each. The second floor, containing 4,000 square feet would be divided to tenants' specifications. The current FAR of 1.5 allows commercial use for 100 percent of the first floor and sixty-three percent of the second floor.

6. The proposed commercial use of 6,840 square feet would result in an FAR of 1.842. A variance of 1,560 square feet is requested.

7. The applicant testified that the subject second floor is not amenable to residential living. The subject building was constructed for commercial use on both floors. The original use of the second floor was as a dance hall. The second floor has no bearing walls. The applicant testified that the present set-up of the apartments is awkward. In several one has to go through one bedroom to reach another. There are long halls. Because of the shape of the building, only half of the second floor can have natural light and ventilation. For residential purposes the building would fail to meet a number of requirements of the Zoning Regulations, such as parking, rear yard, lot occupancy and recreational space. The use of thirty-seven percent of the second floor for residential use would present a number of building and design problems. A second set of stairs and separate entrance for the residential portion of the second floor would be required. It would be impossible to provide the residential amenities. The applicant further testified that the building is located on a street that has almost entirely been converted to commercial use. It is diagonally across from the Marine Barracks which has weekly parades and daily band practices during the summer. The Board so finds.

8. There were many letters in the record from commercial tenants in the immediate area in favor of the application on the grounds that there is little commercial space available in the Capitol Hill area and that shops are needed and that the subject street is essentially commercial with very few remaining residential uses.

9. Advisory Neighborhood Commission - 6B, by report dated September 15, 1980, recommended that the application be approved. The ANC reported that this variance would allow the applicant to utilize an entire commercially zoned building for commercial purposes in a block which is entirely commercial. This building is uniquely commercial, having been built strictly for commercial usage. The first floor has been and is now occupied by the American Rescue Workers Thrift Shop. The second floor is vacant and has been for at least three years. No certificate of occupancy has been issued even though the second floor has been awkwardly partitioned into four apartments. The applicant bought the building in 1978 when the allowable FAR was 2.0 with the intent of renovating it and utilizing it as a commercial building. The applicant is now forced to ask for a variance, but for only 1.84 FAR or twenty-two per cent above the allowable FAR of 1.5. The ANC heard no neighborhood opposition. Neighbors and the Barracks Row Association have voiced support.

The ANC felt that the applicant has met the requirement of undue hardship. If he is denied this variance then he must reapply for a variance from the parking requirements to use the second floor for residential purposes. The ANC stated that the granting of this variance would in no way be detrimental to the public good and would not impair the intent, purpose and integrity of the zoning plan. The Board concurs.

10. There was no opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing of a practical difficulty that is inherent in the property. The Board notes that the subject structure was constructed prior to the current Zoning Regulations. The building occupies approximately ninety-two per cent of the lot. The requested variance is minimal. There was never a Certificate of Occupancy issued for residential uses and for all the reasons stated in Finding of Fact No. 7, the use of thirty-seven percent of the second floor for residential uses is not practical. The Board concludes that the practical difficulty is inherent in the property. The Board further concludes that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (Theodore F. Mariani, Charles R. Norris, Connie Fortune and William F. McIntosh to GRANT; Leonard L. McCants not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

1 DEC 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.